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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/030,149	01/28/2002	Seiichi Yano	020063	8179
23850 7590 07/23/2009 KRATZ, QUINTOS & HANSON, LLP 1420 K Street, N.W. Suite 400 WASHINGTON, DC 20005				
EXAMINER FISHER, MICHAEL J				
ART UNIT 3689		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: SEIICHI YANO and YOSHINOBU HIROBE

Application No. 10/030,149
Technology Center 3600

Mailed: July 23, 2009

Before Quita Gould *Supervisory Paralegal Specialist*
Gould, *Supervisory Paralegal Specialist*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on May 19, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

EXAMINER'S ANSWER, GROUNDS OF REJECTION

A review of the file finds that the grounds of rejection of the claims as provided in the Examiner's Answer mailed January 11, 2008, under the heading "Grounds of Rejection" are not consistent with the grounds of rejection of claims set forth in the last Office action of record. The grounds of rejection of the claims as provided in the Examiner's Answer must be consistent with the last Office action of record, including any Advisory action responsive to any after final submissions. Each Grounds of rejection to be reviewed on appeal must be identified and any new grounds of rejection must be provided under a separate heading "New Grounds of Rejection" in the Examiner's Answer and must include the approval of the TC Director or his/her designee. See also *Manual of Patent Examining Procedure* (MPEP) § 1207.02 and 1207.03 (8th ed. Rev. 6, Sept 2007) for details.

A review of the Examiner's Answer finds that it is unclear as to the status of the rejection of:

- Claim 1 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention;
- Claims 13-19 under 35 U.S.C. § 102(e) as being anticipated by Whitworth; and
- Claims 13-19 under 35 U.S.C. § 103(a) as being unpatentable over Whitworth.

Clarification of the record is required for all "Grounds of Rejection to be Reviewed on Appeal" for all claims.

CONCLUSION

Accordingly, it is ORDERED that the application is returned to the Examiner:

- 1) to clarify the status of claims as set forth in the Examiner's Answer mailed January 11, 2008;
- 2) if necessary, to generate a supplemental Examiner's Answer setting forth the correct Grounds of Rejection, and to correct other sections of the Examiner's Answer as may be required; and
- 3) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

QSG/saw

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